



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams
Agency Secretary

Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Arnold Schwarzenegger
Governor

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Mr. Frans Bigelow
Castle & Cooke California, Inc.
10000 Stockdale Highway, Suite 300
Bakersfield, CA 93311

WATER QUALITY CERTIFICATION FOR PROPOSED MOUNTAINGATE DEVELOPMENT PROJECT (Corps' Project No. 2006-00179-KW), BUNDY CANYON, CITY OF LOS ANGELES, LOS ANGELES COUNTY (File No. 05-228)

Dear Mr. Bigelow:

Regional Board staff has reviewed your request on behalf of Castle & Cooke California Incorporation (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on January 22, 2007.

I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Valerie Carrillo, Lead, Section 401 Program, at (213) 576-6759.

[Original signed by]
Jonathan S. Bishop
Executive Officer

March 23, 2007
Date

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

DISTRIBUTION LIST

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1. Applicant: Castle & Cooke California Incorporation
10000 Stockdale Highway, Suite 300
Bakersfield, CA 93311

Phone: (310) 457-3310

2. Applicant's Agent: R.C. Body
Impact Sciences Incorporation
803-A Camarillo Springs Road
Camarillo, CA 93012

Phone: (805) 437-1900 Fax: (805) 437-1901

3. Project Name: Mountaingate Development

4. Project Location: Los Angeles, Los Angeles County

Longitude: 118.496590; Latitude: 34.097785
Longitude: 118.496600; Latitude: 34.102970
Longitude: 118.494292; Latitude: 34.105916
Longitude: 118.488228; Latitude: 34.102002
Longitude: 118.479737; Latitude: 34.102635
Longitude: 118.476426; Latitude: 34.092666
Longitude: 118.488955; Latitude: 34.093020
Longitude: 118.491382; Latitude: 34.099689

5. Type of Project: Housing development

6. Project Description: *Purpose:*
The purpose of the proposed project is to develop the final phase of the Mountaingate Development. The project Applicant is planning to subdivide approximately 449.5 acres, adjacent to the existing Mountaingate Development. The result would be the construction of 29 single-family homes and private streets within 25.7 acres along the existing Stoney Hill and Canyonback ridges, leaving the remaining 423.8 acres designated as permanent open space with no additional development permitted.

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Description:

The proposed Mountaingate Development is located west of Interstate 405, on the west side of Sepulveda Pass in the City of Los Angeles. The project is located within Bundy Canyon, between Sunset Boulevard and Mountaingate Drive. Access to the homes would be from Stoney Hill Road and Canyonback Road via Mountaingate Drive. The project would also include a secondary emergency access road accessible from the terminus of Stoney Hill Road. This road would be limited to emergency use only, and it would not be accessible as a thoroughfare.

The development of the property would require grading and placement of fill in order to create two streets and pads for the 29 single-family homes. The proposed project is located on the upper elevations of the project site, which requires the slopes adjacent to Bundy Canyon be stabilized. The slopes range in the vicinity of 50 percent, or greater, in many places. The main stream gradient in Bundy Canyon averages 8.3 percent, with the tributaries having slopes similar to the canyon's side slopes. Grading to form the pads/lots for the area along Stoney Hills and Canyonback ridges would create approximately 1,055,000 cubic yards of earth material. The quantity of fill within ACOE/Regional Board jurisdiction will be 242.2 cubic yards of native soils and subsoil.

The project site contains the headwaters of the watershed. Within the site, the stream contains the upper 3,500 linear feet (average 6 foot wide channel) with a watershed of approximately 164 acres. In order to construct the proposed development, project implementation would result in the direct fill of a portion of the on-site drainages. A portion of the Bundy Canyon drainage would then be re-contoured and re-vegetated and a debris/detention basin would be installed near the middle portion of the drainage within the property boundary. Approximately 0.075 acres (545 linear feet) of the 0.34 acres of waters of the United States within the project site would be impacted. The remaining 0.265 acres waters of the United States would be preserved on-site.

In order to comply with SUSMP requirements, the project will implement a variety of Best Management Practices (BMPs) to treat the first 3/4-inch of stormwater runoff from the project site. The BMPs selected for this project include two bioretention basins which will connect through an underdrain to a downstream

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detention basin. One bioretention basin area will treat the runoff from residential lots and the roadway along Stoney Hill Road, the other will treat residential lots and the roadway along Camelback Road. The remainder of the project site will remain either as natural "open space" or will contain manufactured and vegetated slopes with a high level of perviousness.

During the planning and permitting process for the proposed development, the project has been extensively re-engineered and the project size has been reduced to less than six percent of the total property area to minimize impacts to the overall area and avoid jurisdictional resources (waters of the United States) to the maximum extent feasible.

7. Federal Agency/Permit: U.S. Army Corps of Engineers
NWP No. 39 (Permit No. 2006-00179-KW)

8. Other Required Regulatory Approvals: California Department of Fish and Game
Streambed Alteration Agreement
No. 1600-2005-0745-R5

9. California Environmental Quality Act Compliance: The Los Angeles Department of City Planning approved the project's Final Environmental Impact Report (SCH No. 2003071197) on August 4, 2006.

10. Receiving Water: Bundy Canyon Creek, tributary to Pico-Kenter Storm Drain, tributary to Santa Monica Canyon Channel (Hydrologic Unit No. 405.13)

11. Designated Beneficial Uses: MUN*, REC1, REC2, WARM, WILD

*Conditional beneficial use

12. Impacted Waters of the United States: Non-wetland waters (streambed): 0.075 permanent acres (545 linear feet)

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13. Dredge Volume: Approximately 242.2 cubic yards. The volume was derived by taking a conservative estimate of the depth of the channel to an ordinary high water mark of 2 feet and multiplying by the expected area of impact on waters of the United States within 0.075 acres.
14. Related Projects Implemented/to be Implemented by the Applicant: The Applicant has not identified any related projects carried out in the last 5 years or planned for implementation in the next 5 years.
15. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- The City's standard grading procedures and erosion control procedures shall be adhered to during construction;
 - Graded slopes will be restored to Coastal Sage Scrub/Chaparral by hydroseeding using a bonded fiber matrix with an appropriate seed mix;
 - Construction sites and any graded areas shall be stabilized by October 15th of each year in anticipation of the rainy season; and
 - No debris, soil, silt, bark, slash, sawdust, rubbish, cement, concrete or washings thereof, oil, or petroleum products or other organic or earthen material from construction or associated activity shall be allowed to enter into waters or be placed where it may be washed by rainfall or runoff into the any drainage areas.
16. Proposed Compensatory Mitigation: The Applicant has proposed to provide enhancement, restoration and creation on-site to compensate for any project impacts resulting from development actions through a program of non-native and invasive species abatement, and transplanting/planting native riparian and upland vegetation. In the event there is insufficient mitigation area due to access limitations and/or steep grade, a portion of the mitigation requirement will be fulfilled through a contribution of in-lieu fees to an approved Mitigation Bank. The proposed Habitat Mitigation and Monitoring Plan outlines the goals

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and objectives of the mitigation for the proposed project and have been approved by Regional Board staff on December 22, 2006. This plan has also been pre-approved by the California Department of Fish and Game and Army Corps' of Engineers.

17. Required
Compensatory
Mitigation:

The Regional Board will require compensatory mitigation for impacts associated with the proposed project in accordance with the approved plan. Mitigation for permanent impacts shall be provided for at a ratio of 3:1 for any impacts within ACOE/Regional Board jurisdiction. The mitigation areas shall consist of on-site waters of the United States and will not be located in upland areas. In the event the mitigation area on-site is insufficient, the Applicant shall contribute in-lieu fees to an approved Mitigation Bank for the enhancement and restoration of riparian areas. The total mitigation required for the proposed project shall be within 0.225 acres (for 0.075 acres impact).

In addition, the Applicant shall provide mitigation for impacts within California Department of Fish and Game jurisdictional areas. As specified in the Streambed Alteration Agreement (No. 1600-2005-0745-R5), the Applicant shall mitigate with enhancement, restoration and/or creation of 6.20 acres of California Walnut Woodland and Southern Mixed Riparian Woodland habitats. Mitigation shall be completed by October 15, 2008, upon project construction completion.

In order to fulfill the goals of the mitigation plan, at least 423.8 acres of the 449.5-acre project site will be dedicated as "Open Space" in perpetuity. Within this 423.8 acres, approximately 0.265 acres of waters of the United States will be preserved and not impacted by the proposed project.

See Attachment B Conditions of Certifications, Additional Conditions for modifications and additions to the above proposed compensatory mitigation.

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STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This Certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' Section 404 Permit and the California Department of Fish and Game's Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant shall adhere to the most stringent conditions indicated with either this certification, the CDFG's Streambed Alteration Agreement, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. **15**, are incorporated as additional conditions herein.

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5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification and all other regulatory approvals for this project on site at all times so they are familiar with all conditions set forth.
6. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.
7. All excavation, construction, or maintenance activities shall follow best management practices to minimize impacts to water quality and beneficial uses. Dust control activities shall be conducted in such a manner that will not produce downstream runoff.
8. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State.
9. All waste and/or dredged material removed shall be relocated to a legal point of disposal if applicable. A legal point of disposal is defined as one for which Waste Discharge Requirements have been established by a California Regional Water Quality Control Board, and is in full compliance therewith. Please contact Rodney Nelson, Land Disposal Unit, at (213) 620-6119 for further information.
10. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
11. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
12. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats,

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- black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.
13. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
 14. Application of pesticides must be supervised by a certified applicator and be in conformance with manufacturer's specifications for use. Compounds used must be appropriate to the target species and habitat. All pesticides directed toward aquatic species must be approved by the Regional Board. Pesticide utilization shall be in accordance with State Water Resources Control Board Water Quality Order Nos. 2004-0008-DWQ and 2004-0009-DWQ.
 15. The Applicant shall not conduct any activities within waters of the State during a rainfall event, or at any period when site conditions would lead to excessive erosion. If any activities are to be held within **five (5)** days of a predicted rainfall event, the Applicant shall stage materials necessary to prevent water degradation on site, and shall ensure that all stabilization procedures are completed prior to the rainfall event.
 16. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during all vegetation clearing activities. The biologist shall be available on site during construction activities to ensure that all protected areas are marked properly and ensure that no vegetation outside the specified areas is removed. The biologist shall have the authority to stop the work, as necessary, if instructions are not followed. The biologist shall be available upon request from this Regional Board for consultation within 24 hours of request of consultation.
 17. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
 18. All project/maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank

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stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.

19. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** (plan) to this Regional Board. The plan shall include the proposed method and duration of diversion activities, structure configuration, construction materials, equipment, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. Contingency measures shall be a part of this plan to address various flow discharge rates. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for the following shall be implemented:
 - pH
 - temperature
 - dissolved oxygen
 - turbidity
 - total suspended solids(TSS)
 - Downstream TSS shall be maintained at ambient levels
 - Where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases shall not exceed 20%. Where natural turbidity is greater than 50 NTU, increases shall not exceed 10%.

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. These constituents shall be monitored for on a daily basis during the first week of diversion and/or dewatering activities, and then on a weekly basis, thereafter, until the in-stream work is complete.

Results of the analyses shall be submitted to this Regional Board by the 15th day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

20. The Applicant shall restore **all areas** of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.

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21. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed permanent impacts to **0.075 acres** of vegetation within waters of the United States by creating or restoring riparian habitat at a minimum **3:1** area replacement ratio (**0.225 acres**). The mitigation site shall be located within the project site unless otherwise approved by this Regional Board. In the event there is insufficient mitigation area on-site, the Applicant may request approval from the Regional Board to provide in-lieu fees for a portion of the mitigation requirement to a Mitigation Bank for the enhancement or restoration within waters of the United States. The boundary of the mitigation site shall be clearly identified on a map of suitable quality and shall be defined by latitude and longitude. This information shall be submitted to this Regional Board for approval prior to any disturbance within waters of the United States and shall include copies of any agreements made between the Applicant and a third party organization regarding compensatory mitigation efforts.
22. The Applicant shall dedicate 423.8 acres of the 449.5-acre site as “Open Space.” All open space and mitigation areas shall be placed within an “Open Space” easement to ensure preservation of the natural state of the land in perpetuity. Documentation of proper easement placement shall be submitted to the Regional Board within one year of the date of this Certification.
23. The Applicant shall submit to this Regional Board **Annual Mitigation Monitoring Reports** by **January 1st** of each year for a minimum period of **five (5) years** after planting or until mitigation success has been achieved. The report shall describe in detail all of the project/construction activities performed during the previous year and all restoration and mitigation efforts; including percent survival by plant species and percent cover. This report shall include as a minimum, the following documentation:
 - (a) Color photo documentation of the pre- and post-project and mitigation site conditions;
 - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;
 - (c) The overall status of project including a detailed schedule of work;
 - (d) Copies of all permits revised as required in Additional Condition 1;
 - (e) Water quality monitoring results (as required) compiled in an easy to interpret format;
 - (f) A certified Statement of “no net loss” of wetlands associated with this project;
 - (g) Discussion of any monitoring activities and exotic plant control efforts; and

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27. The Applicant shall ensure a Report of Waste Discharge (RoWD) be filed for the proposed project, should any person discharge waste, or propose to discharge waste, other than into a community sewer system, which could affect the quality of the waters of State per Section 13260(a) of the California Water Code. Please note that the Applicant is required to file a complete RoWD/Form 200 with this Regional Board at least 120 days prior to commencing the discharge from the proposed project. The Form 200 can be downloaded from the State Board's website at <http://www.swrcb.ca.gov/sbforms/form200.pdf>.
28. The project shall ensure connection to a Public Sewage Treatment System within 12 months of installation of the sewerage lateral collection line within 200 feet of the property. The project shall maintain compliance with Assembly Bill 885 and all local requirements for operation and maintenance of septic systems.
29. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **05-228**. Submittals shall be sent to the attention of the Nonpoint Source Unit.
30. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
31. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to Los Angeles County and co-permittees under NPDES No. CAS004001 and Waste Discharge Requirements Order No. 01-182. This includes the Standard Urban Storm Water Mitigation Plan (SUSMP) and all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment. The project shall also comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.
32. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.
33. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of

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noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

34. *Enforcement:*

- (a) In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
- (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
- (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.

35. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.